IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 23RD AUGUST 2007 / 1ST BHADRA 1929

WP(C).No. 16581 of 2007(Y)

PETITIONER:

B.RAJEEV, AGED 40, S/O.BHASKARAN,
BHASKARA BHAVAN, KOTTAPPURAM CHERRY,
PARAVUR P.O., KOTTAPPURAM VILLAGE,
KOLLAM DISTRICT.

BY ADV. SRI.V.VENUGOPALAN NAIR
SRI.C.UNNIKRISHNAN (KOLLAM)

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
ITS SECRETARY, DEPT. OF REVENUE SECRETARIAT,
THIRUVANANTHAPURAM.

2. THE DISTRICT COLLECTOR, KOLLAM.

3. THE VILLAGE OFFICER, KOTTAPPURAM
VILLAGE OFFICE, PARAVUR, KOLLAM.

BY GOVT.PLEADER SRI.I.V.PRAMOD

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 23/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF GIFT DEED NO.1344/2006 OF SRO PARAVUR AND LAND TAX RECEIPT IN RESPECT OF THE PROPERTY COVERED BY SAID DOCUMENT.

EXT.P2 TRUE COPY OF THE RECEIPT ISSUED BY THE PARAVUR MUNICIPALITY SHOWING PAYMENT OF BUILDING TAX.

EXT.P3 TRUE COPY OF NOTICE DTD.29.5.2007 ISSUED BY THE 2ND RESPONDENT AND SERVED BY THE THIRD RESPONDENT TO THE PETITIONER.

TRUE COPY

P.A.TO JUDGE

css/

S. SIRI JAGAN, J.

WP(C) NO.16581 OF 2007 - Y

Dated this the 23rd day of August, 2007

J U D G M E N T

The petitioner challenges Ext.P3 notice issued to him directing him to vacate the properties mentioned therein within three days. The contention of the petitioner is that the land mentioned therein is not Government land at all and further Ext.P3 has been issued in violation of principles of natural justice and the provisions of the Kerala Land Conservancy Act.

2. I have heard the learned Government Pleader also. The learned Government Pleader could not satisfy me that Ext.P3 was preceded by a notice or a hearing. Ext.P3 also does not contain any reasons as to why the emergency provisions as provided under the Kerala Land Conservancy Act should be invoked.

3. In the above circumstances, I am satisfied that Ext.P3 is liable to be quashed because of violation of principles of natural justice and provisions of the Kerala Land Conservancy Act. However, if Ext.P3 is treated as a

show cause notice, the same need not be quashed. In the above circumstances, the writ petition is disposed of with the following directions:-

The Additional Tahsildar, Kollam who is not a party to this writ petition shall treat Ext.P3 as a show cause notice. The petitioner shall file his objections to the same within two weeks from today. Thereafter, the Additional Tahsildar, Kollam shall afford an opportunity of being heard to the petitioner which shall include opportunity to adduce evidence also. The Additional Tahsildar, Kollam shall, after considering the objections and evidences, pass a speaking order dealing with the contentions of the petitioner. Till after two weeks of communication of that order to the petitioner, the petitioner shall not be evicted from the property in question.

S. SIRI JAGAN,
Judge

Mbs/

S.SIRI JAGAN, J

W.P.(C) NO. OF 2001

J U D G M E N T

DATED:01-06-2007